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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 LEON D. CURRIE,

9 Petitioner,

10 v.

11 PATRICK GLEBE,

12 Respondent.

CASE NO. C13-5904 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation (“R&R”)
14 of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 4), and Leon
15 D. Currie’s (“Currie”) objections to the R&R (Dkt. 5).

16 Judge Creatura correctly found Currie’s petition to be second or successive
17 because Currie has filed two other habeas corpus petitions challenging this same
18 conviction: C00-5484FDB/JKA and C06-5429RBL/KLS. *See* Dkt. 4. Due to the second
19 or successive nature of the petition, Currie must seek authorization from the Ninth Circuit
20 before filing a new petition. 28 U.S.C. § 2244(b)(3)(A). Following Ninth Circuit Rule
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1 22-3(a),¹ Judge Creatura properly recommended that Currie's petition be referred to the
2 Ninth Circuit and the case be administratively closed without deciding whether the
3 petition should be dismissed. Dkt. 4 at 2.

4 The Court having considered the R&R, Plaintiff's objections, and the remaining
5 record, does hereby find and order as follows:

- 6 (1) The R&R is **ADOPTED**;
- 7 (2) This action is **TRANSFERRED** to the Ninth Circuit; and
- 8 (3) The Clerk is directed to administratively close the case.

9 Dated this 30th day of December, 2013.

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12 BENJAMIN H. SETTLE
United States District Judge

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19 ¹ Ninth Circuit Rule 22-3(a) provides the following guidance regarding second or
successive petitions:

20 Any petitioner seeking leave to file a second or successive 2254 petition or
21 2255 motion in district court must seek leave under 28 U.S.C. §§ 2244 or 2255.
An original and five copies of the application must be filed with the Clerk of the
22 Court of Appeals. No filing fee is required. If a second or successive petition or
motion, or application for leave to file such a petition or motion, is mistakenly
submitted to the district court, the district court shall refer it to the court of
appeals.